

Published as the Act directs July 20th 1781.

Francis Henry De la Motte,
The FRENCH SPY

THE
LIFE AND TRIAL

OF

F. H. DE LA MOTTE,
A French Spy,

FOR HIGH TREASON,

AT THE

Sessions-House in the OLD-BAILLY,

On SATURDAY the 14th of July 1781, and was
hang'd, drawn, and quartered at Tyburn, on
FRIDAY the 27th following.

Taken in Short Hand

By J. Williams, Esq. of the *Temple*.

L O N D O N :

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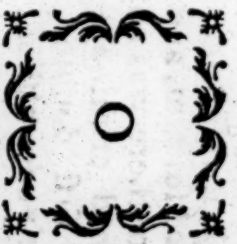
T H E

L I F E and T R I A L

O F

Francis Henry De la Motte,

For HIGH TREASON.



ON Friday the 13th of July, the
sheriffs, attended by Mr. Miller, the
city-marshal, and a few constables
in coaches, went to the Tower, to
bring Mr. De la Motte from thence
to the Sessions-house in the Old Bail-
ey; on Mr. Miller's advancing to
the Tower gates, which were then shut, in the
name of the sheriffs, to demand the prisoner, they
were immediately opened, and a party of the guards
came forward, at the head of whom was the gov-
ernor, who informed the marshal the prisoner was
ready,

ready, but desired to be conducted to the sheriffs, which accordingly was done, and after settling the usual form on that occasion, the prisoner was brought through the tower in a hackney coach to the gate, and was introduced from that into the sheriff's carriage, and from thence was conveyed to the Sessions-house, without the least mob or disturbance whatsoever.

On his being brought to the bar, the indictment found against him for High Treason, stating a great variety of overt acts, in carrying on a treasonable correspondence with some French subjects, informing them of the force, station, and destination of the several squadrons of this country, was read by the clerk of the arraigns.

The prisoner pleaded Not Guilty, and put himself upon the country; after which he was informed by the court, that he was entitled by the laws of this country, to have two counsel and a solicitor assigned him, and upon his request, they assigned Mr. Dunning and Mr. Peckham, as his council, and Mr. Platch, as his solicitor.

Mr. Peckham then applied to the court, that Mr. De la Motte might be lodged in Clerkenwell Bridewell, where a room had been prepared for him, and might not be sent to Newgate, where there was no place for him, but shall for condemned criminals, now much crowded. The court at first doubted, whether they could comply under their commission, which is, "to deliver the goal of Newgate of the prisoners therein being"; but afterwards ordered Mr. De la Motte to New Prison, Clerkenwell, informing him, that his trial would commence the following morning, precisely at 9 o'clock; whereupon he bowed respectfully, and retired from the bar, attended by the sheriffs, Mr. Peckham, &c.

On

On Saturday the 14th of July, at 9 o'clock, the prisoner was put to the bar; and after a short time the pannel of jurors was called over; the prisoner challenged about eighteen. At length the following gentlemen were sworn:

LIST of the JURY.

Mr. Bond	Mr. Payne,
Mr. Brayne,	Mr. Fillingham,
Mr. Paleen,	Mr. Blafon,
Mr. Young,	Mr. Metham,
Mr. Chriffmas,	Mr. Toft, and
Mr. Prior,	Mr. Gribble.

LIST of the COUNCIL.

For the CROWN.	For the PRISONER.
Attorney General,	Mr. Dunning,
Solicitor General, and	and
Mr. Howarth.	Mr. Peckham.

Tried by Mr. JUSTICE BULLER.

The Clerk of the Arraignment then proceeded to read the indictment, which was of very considerable length; the substance of which was,

THAT during the present war between Louis of France, and our present Sovereign, the prisoner was a traitor, and compassed and imagined the King's death; and in order to carry such his treasonable compassing and purpose into effect, he did compose and write divers instructions and letters to be sent to certain subjects of the French King, stating the number and force of divers ships of war of this country; how they were manned and furnished with provisions; the names of the command-

ers, and suppos'd destinations of squadrons; the times of sailing, and the service they were intended for; and the times when other ships were expected to arrive in this country from foreign parts: and the particulars of the regiments destined to the West Indies and America. That Admiral Rodney was at Barbadoes, with fourteen ships of war, and that others were under repair at St. Lucia, and the destination of the Squadron under Admiral Geary. The Indictment likewise charged him with procuring lists of the force and condition of the fleet at Portsmouth, in order to send the same to the enemies of this country; for retaining and employing Lutterloh to procure intelligence, and to send the same to the subjects of the French King, and with other overt acts of treason.

There was another count in the indictment for adhering to the king's enemies, charging the same overt acts as in the first count, against the duty of his allegiance against the peace of our lord the king, his crown, and dignity, and against the form of the statute.

M^r. Attorney General, now stated the nature of the charge: the aid of the kind imputed to the prisoner, was the most effectual that any individual could give to the enemies of this country, as it enabled them, if more powerful than we were, to lay in wait for, and defeat us: if we had the superiority, they were apprised to avoid the danger. He said, it was true the prisoner was a Frenchman by birth; but that whilst he resided under the protection of the laws of this country, a local allegiance arose, as a condition of that protection, and which he was as much bound to observe, as if he had been a natural born subject of this country. A philosopher, he said, might

specu-

speculate on the subject, and might perhaps raise a shade of difference between a traitor of this description, and a natural subject; but in the view of true policy, the offence is, and the punishment ought to be the same, if the acts committed by the prisoner are such as would warrant an imputation of the crime of High Treason in the case of a natural born subject, they must have the same effect in his case. Mr. Attorney said, he could not state with precision, when the prisoner first came into this country. In June 1780, the correspondence of the prisoner was discovered; one Ratcliff had been hired to carry some articles from Folktone to Boulogne: after he had carried one or two, he suspected that he was carrying intelligence, and communicated his suspicions to a Mr. Stewart, who concurred in that opinion: it was therefore agreed, that Ratcliff should deliver the next packet he received, to Mr. Stewart, he did so, and Mr. Stewart brought it to lord Hilborough's office, where the nature of the correspondence was discovered, and from that time all the dispatches delivered to Ratcliff were sent to the Secretaries of state, the material papers were copied, and sent to Boulogne, and delivered to the Commissary there; several of them directed to Montr. Sartine, and other ministers of France. The principal in this correspondence was not yet known, it was thought proper to employ Ratcliff as the instrument to discover him; he had some complaint against the person from whose hands he received his dispatches, with respect to recompence; this he made a pretence for desiring to see the principal, and was introduced to the prisoner under that character.

Mr. Attorney having stated the dispatches, and commented on them, proceeded to the circumstances

es of the prisoner's apprehension. In January last a messenger, attended by a constable, went to his lodgings in Bond-street, but he was not at home; they took his servant into custody, and waited for his arrival. On the next day, about two o'clock, he came; they sent his own servant to let him in, and ingoing up stairs the servant said something to him, on which the prisoner endeavoured to get away, and, in the scuffle to apprehend him, he threw away some papers out of his pocket, which were secured: they consisted of a list of ships which were supposed to have suffered in the West Indies; of the squadron destined for Gibraltar; and the force of Johnston's squadron. Upon this, Lutterloh was apprehended, and confessed his connection with the prisoner, by whom he said he had been paid at the rate of 50 guineas per month. According to his direction, several papers, many of them of very great importance with respect to the prisoner, were found; there were papers in the prisoner's handwriting, addressed to persons in the ports of France; an instruction to Lutterloh, to send cutters the moment Commodore Johnston's fleet should sail, to Ushant, or Brest, or if the wind would not permit them, to St. Malo, and another to Cadiz; and there was also a letter written by the prisoner, with blanks to be filled up by Lutterloh, to convey the important intelligence of the sailing of that squadron. There was likewise a promissary note from the prisoner to Lutterloh, for his pay. The writing of the several papers corresponded with some letters which had been stopped at the Post-office, directed to a Mr. Brulee, at Paris, conveying intelligence of the same nature.

Mr. Attorney General concluded, by observing to the jury, that the bare hiring of either Ratcliff, or Lutterloh,

Lutterloh, for the purpose of conveying intelligence, was an overt act of treason, even if they had never acted; that the instruction for giving intelligence of Johnston's sailing was an overt act of treason; and the obtaining the papers found in his possession, with intent to send them to France, was likewise an overt act; that all or any one of those was sufficient to ground a conviction of the prisoner. The first evidence in support of the prosecution was Ratcliffe.

Stephen Ratcliffe Sworn.

Q. What are you?

A. I am a seaman, and live at Folkestone.

Q. Do you know the prisoner at the bar, and do you recollect any thing as to being applied to by a Mr. Rozaire to convey papers from Dover to Boulogne?

A. I was once in November with Mr. De la Motte, at the house of Mr. Rozaire in Greek-street; but before that I had carried several packets of papers from Canterbury, Dover, and other places, to France, which papers I received from Rozaire.

Q. Who paid you, and what sums did you receive for conveying these papers?

A. Mr. Rozaire sometimes, and sometimes Mr. Walren paid me. I was to have 20 l. for each trip, if the things were delivered soon.

Q. Was not a promise made to you, that if you were expeditious, you should have a present of a hundred pounds, and was that promise fulfilled?

A. I once received 20 l. for a trip, and at other times from 10 to 15 l. I desired to see Mr. De la Motte; and Mr. Rozaire introduced me to him at his (Rozaire's) house in Greek Street. Mr. De la Motte said the money could not be paid me, be-
B
cause

cause I had not delivered the papers early enough, and therefore the news was of no service.

Q. Did Mr. de la Motte complain on account of the papers or the goods not being delivered early enough? Are you sure he said papers?

A. No; he said things.

Q. When you were in Greek Street, I think you received some papers which you were to convey to Boulogne?

A. Yes, and they were given me by Mr. Rozaire.

Q. Do you recollect seeing the model of a gun?

A. Yes; I saw that model, and some prints when I took the papers from Rozaire's in Greek Street.

Cross-examined by Mr. Peckham.

Q. You often have conveyed prints and Birmingham goods for De la Motte by order of Rozaire.

A. I have taken several parcels, the contents of which I was a stranger to.

Q. Did the prisoner, when you was at the house of Rozaire, complain to you that the papers, or the news, was not delivered in time, or did he say, the goods?

A. He did not say the news, but the things, and I do not recollect that he mentioned papers.

Q. Did you ever receive any money, or other gratuity from the prisoner?

A. No; I was always paid by Mr. Rozaire, or Mr. Waltren.

Q. Who delivered the papers to you in Greek-street.

A. I received them of Mr. Rozaire.

Q. Did Mr. De la Motte order Rozaire to give you these papers?

A. No;

A. No; he brought them down stairs, and gave them to me without receiving any direction, in my hearing from Mr. De la Motte.

Nicholas Rezaire.

Q. Of what profession are you, and where do you live?

A. I keep a toyshop in Greek-street. I was introduced to the acquaintance of Mr. De la Motte about two years ago by Mr. Waltren, who retired to Paris immediately after the apprehension of the prisoner.

Q. Have not you been employed by De la Motte to procure packets to be conveyed to France?

A. I engaged Ratcliff to take parcels from De la Motte to Boulogne. I myself often went to Canterbury and other places to deliver packets to Ratcliff; and for this and other services Mr. De la Motte paid me eight guineas per month; and he likewise paid my travelling expences. In the course of six months I went about six times to Boulogne, on the business of Mr. De la Motte; and delivered parcels to Mr. Le Fevre, the agent of Mr. Casin, merchant at Calais, to whom they were to be forwarded. Some of the papers which I delivered to Ratcliff were directed to Mr. Smith, merchant, at Boulogne. Between last June and December I purchased prints for the prisoner to the amount of 300*l.* and these and other goods which he purchased were to send abroad.

Q. Were not letters received at your house directed for the prisoner?

A. Mr. Waltren requested that I would permit post letters intended for him, to be superscribed with my name; and I have paid for letters, so directed, sometimes six-pence, eighteen-pence, and

sometimes two shillings. These letters were sometimes delivered to me by Walren, and sometimes the prisoner took them from my house; I have seen him break open several, but I never read any of them.

William Steward.

At different times I have received papers from Ratcliff, and transmitted some of them to Lord Hilborough's office. On the third of July he brought me one packet; another on the 16th; and another on the 2d of August; and these three I delivered to Sir Stanier Porteen, having marked them so as to enable me to swear to them; and I instructed Ratcliff to discover the author.

Sir Stanier Porteen.

Q. As you are secretary to Lord Hilborough, it is presumed, Sir, that you know something of the papers mentioned by the last witness.

A. I found the former papers laying upon the table in the office: but Mr. Steward delivered into my hands three several parcels at different times, namely, on the 4th of July, the 17th of the same month, and the 2d of August. Of two of those which were delivered to me by Mr. Steward, I took exact copies, and of the third I made an abstract: and the others I caused to be copied at the post office. After being transcribed, the originals were returned to Mr. Steward, in order to be forwarded to France; I delivered the whole of the transcripts to Mr. Todd, or Mr. Maddison, and wrote my name on those three parcels delivered to me by Mr. Steward, in order that I might be enabled to authenticate them as true copies.

Q. After being transcribed, how were the original papers disposed of?

A.

A. I delivered them to Mr. Todd, or Mr. Mad-dison of the post-office. That parcel received on the 4th of July, to Mr. Todd; but with respect to the others, I cannot precisely decide to which of those gentlemen I delivered them.

Mr. *Maddison* being sworn, he examined one of the transcripts, and swore it to be in the hand-writing of a clerk of the post-office, lately deceased. Mr. Chamberlayne was preparing to read other papers, when Mr. Peckham interposed, contending that they were inadmissible as evidence, since it had not been proved that the originals were ever in the possession of the prisoner, much less that they were in his hand-writing; and for this reason the learned gentleman insisted the originals themselves would not be evidence if they could be produced; and that therefore the copies must necessarily be objected to by the court.

Mr. Attorney General argued, that as a conspiracy had evidently subsisted between the prisoner and Henry Lutterloh; and though he admitted what had been advanced by the counsel for the prisoner, that it had not been proved that any of the papers in question were those identical ones which Ratcliff received from Rozaire in the presence of the prisoner; yet the proofs that in this early stage of the trial were so indisputable, that a treasonable conspiracy had subsisted between the prisoner and Lutterloh, that he conceived himself to be perfectly justifiable in persisting in his opinion, that the papers ought to be admitted in evidence.

Judge *Buller* now delivered his opinion to the following effect: Admitting that the proofs of the conspiracy were clear, yet, it had not come out in evidence, that the originals were bona fide the writing of the prisoner. Ratcliff had sworn, that
he

he received papers in presence of the prisoner; but could not prove, that they were the originals from which the copies were made; nor had he in any instance attempted to prove the hand-writing of the prisoner. His opinion, in short, was against the admissibility of the copies; and in this the court acquiesced.

Charles Jealous.

On the 4th. of January, accompanied by David Prothero, I went to Mr. De la Motte's lodgings in Bond-street; and not finding him at home, we remained there all night. About two in the afternoon, or the 5th, a double knock was heard at the door, when the prisoner's servant said, he believed his master was come, and opened the door. In the passage the servant spoke to the prisoner, who immediately turned on his heel, seemingly with a design to go out at the street-door, at which moment Prothero seized him by the collar. We threw him on the floor with an intention of searching him; but in the struggle he took some papers out of his waistcoat pocket, and threw them upon the stairs. I took up the papers, among which was a bank note for 10 l. which was returned to him. After this we conveyed him before the secretaries of state who committed him to the Tower.

The papers which the prisoner had thrown from his pocket at the time of his apprehension were now read; and they contained an accurate narrative, in the hand-writing of his agent Lutterloh, of the general situation of the British navy; mentioning the destination of the Britannia, the Prince George, the Duke, Monmouth, the Alexander, and many other ships of war, with the time for
which

which they were respectively victualled, and when they would be ready to sail. Information was also given of the strength of commodore Johnstone's squadron, with its being victualled for eight months. There was also an account of the damage which our shipping sustained in consequence of the dreadful hurricane in the West-Indies, the lost and damaged ships being enumerated, and the time being ascertained which would be required for the repair of each vessel. There was also a list of the number of the sick and wounded men at Hafler. All these papers were in the hand-writing of Lutterloh; some being directed to Mr. Theed, Philpot-lane; and Mrs. Wall, Carington-street, that they might escape suspicion. They were dated in December and January last, and none of them had the superscription of the prisoner's name or place of abode.

Matthew Slater.

Q. Was not you sent to Wickham to apprehend Lutterloh; and did not you find some papers in his garden?

A. I apprehended Lutterloh, at Wickham, on the 4th of January; and I again went there on the 16th of the same month, and found a number of papers concealed in the earth of his garden, according to the direction given me by Lutterloh. These papers I delivered to Mr. Chamberlayne.

Henry Lutterloh.

Q. How long have you known the prisoner, and of what nature was your connection with him?

A. I have known the prisoner from the year 1778, and was employed by him to procure intelligence relating to the British navy, which he was

to send to the French ministry. I was acquainted with him when he lived in Berwick-street, at Hampstead, and in Bond-street.

Being shewn a number of papers, great part of which had been found by Slater in his garden, he swore that almost the whole of them were the hand-writing of De la Motte. He particularly swore to a paper of instructions written by the prisoner, wherein the intelligence the prisoner wished to obtain with respect to the destination, sailing, and force of commodore Johnson's squadron, was mentioned among a great number of other matters. Lutterloh swore that the paper, marked No. 9, contained information concerning our navy, which was intended for the French ambassador at Cadiz; that No. 11, was intended for the governor at Brest; No. 15, for Mons. Sartine, the naval minister at the court of France; and he also acknowledged that other papers were intended to be transmitted to the commandants of the different French sea-ports to whom they were directed. This deponent says, that when any matters of importance occurred, he frequently came express to London, in order to communicate the particulars thereof to the prisoner; and that sometimes he sent his intelligence by the post, diligence, or some other quick mode of conveyance: but that he might be provided in cases of extraordinary emergencies, the prisoner had been accustomed to supply him with dispatches directed to the officers of the French sea-ports and the ministers of France, with blanks left for him to fill up, expressing the names, strength, number, time of sailing, destination, &c. &c. and several of these papers with blanks, and others which had only directions to different persons in France, he swore to be the writing of the prisoner, and

Counsel for the Prisoner. Had not you, and M. De la Motte pledged yourselves not to betray each other? know A.

A. We entered into a solemn engagement to that effect.

Q. And in order to falsify that engagement, how did you act. Had not you a design of betraying your friend, in order to enrich yourself; or did you do it for the purpose of making restitution to that country which you have wounded and were so industrious to destroy? A.

A. I did it to serve England, and to enrich myself.

Q. What did Mr. De la Motte pay you for your services to him?

A. He paid me at first five guineas a month, and afterwards so guineas a month.

Q. What means of support have you at this time present?

A. I have a fortune sufficient to maintain me.

Q. Then I am to understand that, by the transaction, you were engaged in, jointly with Mr. De la Motte, you have acquired an independency, and that you meant to destroy him, in order to enrich yourself by his share of the plunder?

A. I did it to serve this country.

Q. Let us hear in what manner?

A. I went to Sir Hugh Palliser, and discerned him of the proposals I had made to the French ministry, for destroying the English shipping, and also told him by what means the fleet of France fitted out to destroy the squadron under Com. modore Johnstone, might be itself destroyed; but I concealed the name of the prisoner.

Q. Well;

After quitting the service of Mr. Wildman, who had lent me money to go into business, and expressed the greatest kindness for me, I took a small shop in Great Wild street. While in this situation a relation prevailed upon me to accept his bills, and in consequence of my compliance, I was involved in many pecuniary embarrassments. To avoid the importunities of my creditors, I retired to Germany, but soon returning, I hastened to the King's Bench, and availed myself of an act of insolvency.

At the time of the naval review I went to Portsmouth, and there procured employment in the capacity of bookkeeper, at the George-inn. After this I projected a plan for raising a fortune, by purchasing arms in the German principalities, and selling them to the American congress. This plan I communicated to a friend, and in order to prosecute it went to America; but it proved a visionary scheme, and was not carried into execution.

Upon forming an acquaintance with De la Motte, we suggested means for supplying the French with intelligence; and soon a considerable sum was sent with great success to the frigate which conveyed the packets, being directed by De la Motte, to make Ushant, Boulogne, or other ports, as occasion required. I was engaged on this service for several months.

At length it occurred to me, that by means of a friend, I might be able to learn the private signals appointed to be observed by governor Johnstone's squadron. This I communicated to the prisoner, saying, that I should expect 3000*l.* for a service of such importance; and he said, my terms should be complied with.

In November last I went to Paris, and had an interview with Messrs. Bondouine and Sarline, both of whom are in the marine department of France. I communicated to them the project of obtaining the private signals, and in case of success the 3000*l.* was promised; and likewise an eighth of the value of all the ships that should be captured. I demanded a third, but they would allow only an eighth.

It was a further contract with the French ministry, that they should allow 2,000*l.* for every 50; 3,000*l.* for every 64; and 4,000*l.* for every 74 and 90 gun ship that should be captured in consequence of the intelligence transmitted from England.

The counsel now asked, whether, after he had proceeded to these very extravagant lengths, his motive in betraying his associates was not, that he might enrich himself by his share of the plunder.

The witness then said, that he waited upon Sir Hugh Palliser, and communicated to him all the particulars of the transactions in which he had been engaged from his first connection with the prisoner, adding, that he informed Sir Hugh at the same time, of such circumstances relating to the force equipped to oppose the commodore.

George Randall was sworn to translate the several papers found in Lutterloh's garden, of the prisoner's writing, the first of which was instructions to Lutterloh, which was read as follows: "When Commodore Johnston shall sail from Spithead, you shall order your two smugglers to set sail; one shall go to Ushant or Brest, and deliver the letters you shall give him, and on receipt he'll give the hour and the day that he shall have received them, if wind or circumstances will not permit the smugglers to go to Ushant, he will do his utmost to carry the letters to St. Malo; but Ushant or Brest are the ports which he should make, and not think of St. Malo but on a very extraordinary occasion: the smuggler, who shall go to Cadiz, will deliver the letters to the Commandant of Marine at Cadiz, and shall take a receipt from the said Commandant, of the day and hour the letters is delivered to him; if the wind or circumstances shall hinder, positively to go to Cadiz: he will do his utmost to go to Ferrol, or Lisbon, he shall carry the letters to the French Ambassador at Lisbon. It is to be observed, the principal object is to go to Cadiz, and that Ferrol and Lisbon are only on the impossibility of going to Cadiz."

"Sir,

"*Si, Monsieur, je le desirerois, je le ferois.*"
 "This day, 22nd month, 1702nd hour, *Commodore*
Johnson sailed with ——— ships. There are no other
 vessels ordered to follow him; I desire you to give a receipt
 to the bearer of the hour and the day."

A cover, directed
Monsieur Monsieur Commandant *Uran*

A Monsieur Monsieur Commandant, a Cadiz.

"Mr. Commandant is desired immediately to deliver to
 the bearer a receipt, not signed, of the hour and of the re-
 ceipt of this packet, dating the year by two dds, the Day by
 the name of the Saint, and the hour by the hour itself."

Three other covers directed,
 To the Commandant.

One to the Minister of Marine.

A promissory note for services.

"I promise to pay to Mr. Lutterloh, on 25th instant,
 1000^l sterling, for liquidation of account, between us."

DE LA MOTTE.

Another Paper as follows.

Four thousand guineas, ready money; for a man of war
 of 50 guns, 2000 guineas, I mean it 2000; man of war of
 64 guns, 3000 guineas; man of war of 74 guns, 4000 gui-
 neas; man of war of 90 guns, 4000 guineas. Ask for me.

Francis Bear deposed, that he had known the prisoner
 since December last, and had seen him write, and being
 shown

shewn the several papers, which Lutterloh had sworn were the hand-writing of the prisoner, he confirmed that testimony with the exception of two. This witness was examined by the assistance of an interpreter; he said he had been retained in the service of the prisoner, but had not been paid any wages, the prisoner having been apprehended before they became due.

Mr. Loquene, a merchant, deposed, that he knew the prisoner, had received remittances for him from Paris, from June 1780, to the end of the last year, to the amount of 3000*l.* had seldom seen him write. Been shewn the instructions to Lutterloh, and the other papers, he said, he believed all, except one, were the prisoner's hand-writing. He produced the seal of a letter, that he had received from the prisoner, which corresponded with the seal on the several packets and covers. On his cross examination *Mr. Loquene* said, he had frequently seen the prisoner sign his name, sometimes of *De la Motte*, and sometimes of *Dagremont*, and had seen him write some notes.

Samuel Atkins, Esq. of Wickham, deposed, that he was introduced to the prisoner, at his lodgings, in August, by Lutterloh, and that he was in company with him at Lutterloh's house, a few days before he was apprehended.

Mr. Peckham, after lamenting the absence of *Mr. Dunning*, who was taken ill in the course of the trial, and therefore under the necessity of retiring, addressed the jury, saying, That the gentleman at the bar, almost a stranger to the laws and customs of this country, is charged with an act of constructive treason, upon an English act of Parliament; in this situation he relies on the justice and humanity of a jury of Englishmen, on the decision of men who are above the narrow influence of national prejudice, who feel that if any distinction ought to be made, it should be in favour of the unhappy foreigner; such a partiality will be honourable and praise-worthy, it is a partiality which has long prevailed in cases of property. The present Chief Justice mentioned with

satisfaction,

satisfaction, that he had observed such a partiality universally prevail. It is not from affectation that I call him the gentleman at the bar, his unhappy situation makes it unnecessary to repeat in his ear the grating sound of prisoner.—He is, by education, by rank, and profession, a gentleman; during the last war he served his king with honour and bravery, as colonel in the regiment of Soubise; when the war was at an end, his regiment was broke, and he retired to his estate in Alsace, which gave him the Barony of Dagremont. Titles in France do not, as in England, follow the descendants of the possessor, but are annexed to the estate: here he lived at an expence beyond his income, and as many of our nobility leave this country to retire to the continent for cheapness, he left his native country, and came to this; when he had been here a year, he sold his estate, and paid off all his debts. Lutterloh was very pressing that De la Motte should extend his trade, assuring him, that through his interest with Sir Hugh Paliser, he could procure a passport, under a pretence of conveying false intelligence to the enemy. But this Mr. De la Motte refused, from a principle of gratitude to his own country.

Mr. Peckham then cautioned the jury against taking away the life of a fellow creature, on the evidence of such a man as Lutterloh, and pressed the possibility of this being all a scheme and contrivance of his to ruin the prisoner. He called upon the jury to recollect, that the moment De la Motte arrived in town from a visit to Lutterloh, he was apprehended; the officers had been all the preceding day and night in the house; and it was proved that there were no papers on the stairs, previous to his arrival; but it was said he threw them away. How did he get them? they were put into his possession by Lutterloh, in order to be found upon him.

The charge contained in the indictment is High Treason, in compassing the death of the king, which, as the intention of the heart cannot be known to human tribunals, is required by the law to be proved by overt or open acts. The second count is for aiding and adhering to the king's enemies;
now

how every one of the charges in the indictment must be proved; the first overtact charged is, that Mr. De la Motte wrote a letter giving an account of the ships at Spithead, to be sent to certain subjects of the French King; if no such letter was sent to the subjects of the French king, that account falls to the ground. Some packets were sent to Ostend, which is not in the dominions of the French king, but belongs to Austria. The next charge is, that on the 30th of June, Mr. De la Motte hired Ratcliff to carry letters and instructions: The court have very properly refused the evidence offered as to this part of the case, this therefore is unproved: another charge is, that he procured certain accounts of the names and force of commodore Johnstons's squadron, to be sent to the subjects of the French King; and you must confine your enquiry to such papers only as were brought to Odey's, since none others are the subject of this charge; this intention is by no means proved, and in such a case nothing is to be presumed against a prisoner. As to throwing away his papers, it is observable, that among those papers was a bank-note, and it is fair to presume, that he, a foreigner, finding himself laid hold of by the officers, hoped to preserve his note, by throwing it to his servant. It must not be forgotten too, that none of those papers are in Mr. De la Motte's writing, but all in the writing of Lutterloh. The next charge is, that the prisoner retained Lutterloh, to procure information of the sailing of Johnstons's squadron, in order to send intelligence of it to the subjects of the French King: if that intelligence was not sent, as appears from the evidence to have been the case, however improperly Mr. De la Motte might have acted, supposing him to have retained Lutterloh, he is not criminal in the degree charged in the indictment. For if I retain a person to murder another, however wicked my intention may be, if that intention is not executed. God forbid I should suffer death for the murder of a man still in being; so we in this case admit for argument, that Mr. De la Motte did employ Lutterloh; yet if the intelligence was not sent, he has not done an act to warrant you in convicting him of High treason. The act of Parliament which was made in good times, when the life and liberty of the subject were dy-

ly valued, has required that you should have sufficient proof, by the oaths of two persons, of some open act of treason : are there in this case, two witnesses to any one overt act ? As to the instructions, said to have been given to Lutterloh, the evidence of that fact depends on Lutterloh alone ; and who, gentlemen, is Lutterloh ? according to his own picture, a monster in human shape, as well as an abandoned traitor, a traitor to England, and a traitor to that country that enriched him for his treason to this ; a man, who by his own account is an accomplice in the guilt, which his evidence would impute to Mr. De la Motte ; in the character of an accomplice he is not admissible as a witness alone in any case, even if this fact of treason had not been made. But, gentlemen, the great men who conduct this prosecution, knew that the court would not have heard Lutterloh unsupported by witnesses, to whom the characters of accomplices could not be objected ; they have, therefore, called two other witnesses to prove the hand-writing of Mr. De la Motte. I have the authority of Chief Justice Holt, that similitude of hand-writing is never to be admitted as evidence. Boar, has seen him write but twice ; and though he takes upon himself to swear to the writing, he tells you he did not recollect a word of what was written.

Mr. Peckham then mentioned a recent case in the Exchequer, where a very worthy, well meaning man had sworn positively to the hand-writing, tho' another person, who had written the paper in question, afterwards swore to the fact,—from thence he took occasion to urge the jury to be cautious how they decided on evidence, so capable of being mistaken without any intention to mislead.

— *Pigot.*

Q. What are you ?

A. An engraver and printseller in the Strand.

Q. Did ever the prisoner purchase prints of you ?

A. Mr.

A. Mr. Rozaire purchased some for the use of the of prisoner, to the value of about 100*l*.

Q. Were they the best prints that could be procured, or were they of an ordinary sort?

A. The best prints [†].

Q. Did you keep an account in your books of the prints sold to Mr. Rozaire, for the use of the prisoner?

A. No; he always paid for them on delivery.

William Faden.

Q. Don't you keep a print shop?

A. I do; at the corner of St. Martin's-lane.

Q. Did the prisoner ever purchase any prints of you?

A. He did, to the amount of about 93 *l*.

Questions from the Solicitor General.

Q. What Bill is this? (Shewing him a bill.)

A. A bill that I wrote out for the prisoner.

[†] Had they been of an inferior kind the guilt of the prisoner would have been still more apparent; for then it would have appeared that the prints were only sent abroad to prevent suspicion: but he would scarcely have purchased the finest and most expensive prints for this purpose.

Q. There

Q. There are maps mentioned in the bill : what maps are they ?

A. Maps of the coast of America, published by the authority of the lords of the Admiralty.

Q. What bill is this ? (producing another bill.)

A. Another bill which I gave to the prisoner.

Q. There is mention of chart in this bill : what chart is that ?

A. A chart of the coasts of Europe and America, in the Atlantic ocean.

Questions from the Counsel for the Prisoner.

Q. Were not the e maps for public sale ; and might they not have been purchased by an indifferent person ?

A. They were always public in the shop.

Mr. *Alkies* was called to prove, that an acquaintance had subsisted between the prisoner and Lutterloh ; and he swore to their having been intimate for some time. Mrs. Hanock was called for the same purpose ; but not being able to distinguish the prisoner, though repeatedly directed to look towards the bar, her evidence was rejected.

Rexaire called again.

Q. Do you recollect any conversation with Lutterloh on the day when you attended the grand jury on occasion of preferring the bill of indictment ?

A. Yes, I do,

Q. What

Q. What was the substance of that discourse?

A. Lutterloh upon coming from the grand jury said, " It is a bad affair for us: I know enough to hang De la Motte, and have sworn to his writing, and he must be hanged. Don't you know the ministry will be glad to have vengeance for the death of Andre?" When Lutterloh came from the grand jury, he said, " I am sure the bill will be found. I know enough to hang him, and have sworn to his writing. I can work better without him, and shall be glad he is hanged."

Upon his cross examination, he said Lutterloh spoke French that day, and he never heard him do so before, or since.

— *Appel* deposed, that he had known Lutterloh ten years; that he was a servant when the witness first knew him; after which, he kept a chandler's shop; that he made a kind of proposal to the witness to go to France, and told him, there was a Prince in Germany who wanted money, and had several stand of arms, and he would endeavour to sell them to the American Congress. He was to go to Dr. Franklin, to agree about it: said he should rather doubt Lutterloh's credit, but did not know more of his character, or credit, than he had stated.

Mr. *Wildman* swore, that in 1779 or 1780, Lutterloh lived with him as a servant, during which time an accident happened (alluding to his bureau being broke and rifled of about 80 or 90 l.) but he did not pretend to assert that Lutterloh had acted in a criminal matter; but he thought himself justified in refusing to give him a character; and he said he did not recollect having lent him any money, as he had sworn.

Mr. Solicitor General said, the doctrine that had been pressed by the learned advocate for the prisoner, that partiality was a principle of justice, was perfectly new to him, though he had had the honour of practising in the court in which

which it had been said such doctrine was delivered ; neither could he conceive that it would be honourable in a jury to break their oaths, and as an effect of a laudable partiality, to acquit a foreigner on evidence that would have been sufficient to have convicted a native ; all (continued he) that I ask is, to determine according to the evidence, and the oath you have taken. He desired the jury would lay out of their minds all the lamentation they had heard of the unhappy situation of the prisoner at the bar, to whom the appellation of unhappy was by no means applicable, unless the consciousness of guilt, and the detection of that guilt rendered him unhappy, since he had the advantage of a fair and impartial trial, and the assistance of the ablest counsel which the English bar afforded. This country would indeed be in an unhappy condition, if men living under the protection of its laws could be guilty of crimes of such enormity, and pregnant with consequences so fatal, and should yet escape unpunished from a mistaken compassion. With respect to not calling Mrs. Luttreloh, and Mrs. Waltren, he had been of opinion, that their evidence was unnecessary to substantiate the facts ; he had therefore forborne (as he thought it his duty to do) suspending time by examining them. In answer to the long and laboured argument respecting familiarity of hand-writing, he had only to say, it did not apply to this case, no such evidence having been offered, the writing having been proved by witnesses who were acquainted with the prisoner's character of writing. The evidence he contended, applied to both species of Treason, charged on the prisoner, the compassing the death of the sovereign, and adhering to his enemies ; for whoever gives intelligence to the enemy, is guilty of compassing the king's death. With respect to the sort of intelligence communicated, he said, the jury might judge of its importance, from the enormous sums which the evidence proved the French court had paid to procure it ; nor was the advice sent by a trusty friend, as authentic, to be considered as of the same nature with the vague reports of newspaper paragraphs.

Mr.

Mr. Justice Buller summed up the evidence, which he prefaced by observing, that there were two sorts of treason charged in the indictment, viz. compassing the death of his majesty, and adhering to his enemies; that the overt acts were collecting intelligence to supply the enemy with, the sending such intelligence to the enemy, and the hiring a person to collect intelligence, and these, he informed the jury, were overt acts of treason, as had been held in several cases, although the intelligence had not ever been communicated; that such being the law, the questions for the jury to try were, whether the prisoner hired Ratcliff, and Luttreloh, or either of them, to convey the intelligence; and whether the two letters which had been intercepted and read, in evidence, were intended to be sent to the enemy.

The learned judge having informed the jury of the law, said, he should proceed to state the evidence as fully as possible; and that he should make such observations on it, as he went along, as might occur to him, conceiving it the duty of the court, to inform and assist so as not to mislead the jury; but before he did this; he desired they would observe, that they ought not by any means, to adopt any opinion or observation that he might deliver, because it came from him, but if it did not perfectly coincide with their own observation and reasoning on the case, to reject it totally, and to adopt such other as might appear to them better founded. Having made these preliminary observations, the judge proceeded to state the evidence in a very candid, dispassionate, and accurate manner, occasionally observing on such parts, as made either in support of the prosecution, or in favour of the prisoner, and left the whole with them to decide according to their oaths.

The jury withdrew for a very few minutes, and returned with a verdict, GUILTY.

After a pathetic address to the prisoner, Mr. Justice Buller pronounced the following sentence:

“ Francis

“ Francis Henry De la Motte, having been convicted of
 “ High Treason, it is incumbent on me to discharge the
 “ painful task of pronouncing the sentence which this court
 “ has awarded, and which is, that you shall be taken to the
 “ place from whence you came, and from thence to the
 “ place of execution, and there hanged by the neck, but
 “ not till you are dead; while you are yet alive, that your
 “ bowels be taken out and burnt before your face; that
 “ your head be severed from your body, and your body
 “ quartered, and that your head and body be disposed of as
 “ the king shall think fit; and the Lord have mercy on your
 “ soul.”

The unfortunate man, of whose trial we have given this copious account, is about five feet ten inches in height, rather of an adult complexion; his deportment is exceedingly genteel, and his eye is expressive of strong penetration. He wore a white cloth coat, and a linen waistcoat, worked in tamboour. After sentence Mr. Akerman's servants prepared to reconduct him to prison, but being ignorant of their design, he sat in the chair, in which he had sat during almost the whole of the trial; but upon the matter being explained to him, he rose, paid a polite obedience to the court, and retired.



An Account of the Execution of *Francis Henry De la Motte*, on Friday, July 27th at Tyburn, for HIGH TREASON.

PURSUANT to an order received on Thursday evening, by the Sheriffs of London and Middlesex, from Lord Hilborough, one of his Majesty's Principal Secretaries of State, requiring of them to demand of the Warden of the Tower, the body of Francis Henry De la Motte, in order to prepare for execution, on Friday morning; the Sheriffs, in consequence, accompanied by Mr. Akerman, Gaoler of Newgate, and other inferior officers, attended at the Tower, between

between four and five o'clock, Friday morning, when Monsieur de la Motte was delivered into their custody, and by them privately conveyed to Newgate, where they arrived a little after six; the prisoner and Mr. Akerman in a hackney coach, and the sheriffs in their own carriages.

Immediately on his arrival in Newgate, he was conducted to a cell, and his irons taken off. A Romish clergyman attended, and from him he received the sacrament; after which, he spent the remainder of the time, till about nine o'clock, in prayer.

It was at this period that the wretched culprit experienced the first instance of the succeeding miseries which he had to encounter, in the degrading circumstance of tying the arms behind with the very halter that was afterwards to hang him, which ceremony being gone through, and having with becoming acknowledgements taken leave of Mr. Akerman, he was brought out into the street, and placed in the hurdle, with his back to the horses, the executioner seated at the bottom, facing him, with a drawn sword, as is customary on executions for treason.

The sad procession here commenced; first between twenty and thirty sheriff's officers on horseback, which were followed by a more considerable party of constables on foot and horseback. The City Marshal rode before the Sheriffs, Sainbury an Crickten, who were in their separate chariots, and who immediately preceded the coach, drawn in his miserable vehicle, by four horses, and surrounded by a prodigious throng of constables and spectators, who pressed upon him in a most indecent and unseemly manner.

It in this state they set forward; but so immense was the crowd, that notwithstanding they set out a little after nine, it wanted but a very few minutes of eleven, when they reached the place of execution; Monsieur de la Motte never suffering the uproar to interrupt his meditations, or once swerving from that manly constancy, which he was known

to possess in an eminent degree, and which character he sustained to the last. He was not to be vanquished by adversity. Monsieur de la Motte met death as he did his trial and sentence, with heroic fortitude and intrepidity — no change of colour; no symptom of trepidation manifested the workings of a soul that trembled at the approach of fate; all was calm and serene in his behaviour at the fatal tree; and he exhibited at once the man, the gentleman, and the Christian. He was then led to the gallows, and he himself took off his hat, and falling on his knees, he bent himself down to the edge of the cart, with his hands joined on it; and leaning his head on his hands, continued his silent prayer for a minute or two; then rising up, he bowed most gracefully and most respectfully to the two Sheriffs, taking his last leave of them, and thanking them for all the indulgence he had experienced at their hands. He was then tied up, by the arms, off precisely at eleven o'clock. He appeared to be dead in a couple of minutes; nor was his death attended with any convulsions.

To the honour of the Sheriffs, they humanely disobeyed the law, and did not suffer him to be cut down alive; the sentence directed, but suffered him to hang exactly an hour and a half. He was then cut down, and his head being severed immediately, and very dextrously severed from his body, the executioner proceeded to embowel him, and plucking out his heart, threw it into the fire that had been kindled for that purpose. The body (which was most carefully guarded) was then put into a very neat coffin by an undertaker and his servants, who attended for that purpose; and the head, agreeable to his Majesty's pleasure, reserved by the executioner to be publicly exposed.

After Monsieur de la Motte had hung about half an hour, an venerable looking gentleman went up to both the Sheriffs and

and after a short conversation, returned to the side of the departed friend, and purchased his black shagbark-briefs and hat, at the price of some gold, that it might not remain in the unhallowed hands of the executioner, who would undoubtedly have derived some advantage, by exposing it to the idle view of insatiable curiosity.

Mr. de la Motte, by mistake gave the yeoman of the halter (he is called, whose duty it is to tie the arms of the prisoners previous to their departure from Newgate) six guineas, which were intended for the executioner. Mr. Akerman, the celebrated barrister, committed, and saved the yeoman return the six guineas to the prisoners when the prisoner was, during the night, held fast by his hands to him, and the good happy sufferer then explained his mistake.

The above unfortunate gentleman had a glass of wine and water in Newgate, for which he gave the turnkey a guinea; and not knowing how many compliments of the like kind he had to pay, he died with several guineas in his pocket, of which the executioner possessed himself.

Mr. de la Motte was in deep mourning, and had his hair very gently dressed; so much, so indeed, that when the executioner was putting his cap on, he did it so gently and leisurely, that he appeared as if he was afraid to spoil the hair.

While the unfortunate sufferer wore his hat, he appeared, from its being flapped, as if he was dejected and melancholy; but when the hat was taken off, his countenance wore not the smallest appearance of dejection or dismay. His noble and manly figure won upon all the spectators, who by their looks testified, that all pitied, all admired, a man, who seemed born for a better fate.

It was computed that there were not less than from 80 to 100,000 people present at the execution; several petty scaffolds

